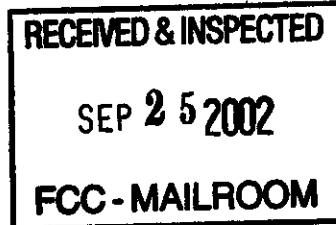


Before the  
Federal Communications Commission  
Washington, DC 20554



In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Lake Station Community Schools	)	File No. SLD-224842
Lake Station, Indiana	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: September 19, 2002**

**Released: September 20, 2002**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Review by Lake Station Community Schools (Lake Station), Lake Station, Indiana.<sup>1</sup> Lake Station requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator), denying some of Yeshiva's Funding Year 2001 requests for discounts under the schools and libraries universal service support mechanism.<sup>2</sup> For the reasons set forth below, we deny the Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> The Commission's rules require that the applicant make a bona fide request for services by filing with the Administrator an FCC Form 470, which is posted to the Administrator's website for all

<sup>1</sup> Letter from Dan DeHaven, Lake Station Community Schools, to Federal Communications Commission, filed April 9, 2002 (Request for Review).

<sup>2</sup> *Id.* Previously, Funding Year 2001 was referred to as Funding Year 4. Funding periods are now described by the year in which the funding period starts. Thus the funding period that began on July 1, 1999 and ended on June 30, 2000, previously known as Funding Year 2, is now called Funding Year 1999. The funding period that began on July 1, 2000 and ended on June 30, 2001 is now known as Funding Year 2000, and so on.

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

potential competing service providers to review.<sup>4</sup> After the FCC Form 470 is posted, the applicant must wait at least 28 days before entering an agreement for services and submitting an FCC Form 471, which requests support for eligible services.<sup>5</sup> Each such request is submitted on a separate Block 5 worksheet.<sup>6</sup> SLD reviews the FCC Forms 471 that it receives and issues funding commitment decisions in accordance with the Commission's rules.

3. Upon receipt and successful data entry of an FCC Form 471, SLD issues a Receipt Acknowledgement Letter (RAL), which summarizes the applicant's funding requests.<sup>7</sup> The applicant may make certain types of data corrections to its request during the two-week period after SLD issues the RAL.<sup>8</sup> Corrections that are permitted at this time include changing contact information, reducing the amount of requests included in an application, changing the service provider identification number if the original service provider has merged with or been acquired by the new service provider, and "unbundling" or "splitting" a funding request that incorrectly combined two requests.<sup>9</sup> Conversely, SLD does not permit changes that increase the amount of support requested, or that request services not initially requested.<sup>10</sup>

4. In Lake Station's FCC Form 471, it made five funding requests, each for telecommunications services.<sup>11</sup> In each funding request, Lake Station erroneously indicated that it was seeking only three months of service rather than a full year of service.<sup>12</sup> After submitting the application, Lake Station contacted SLD and was told that it could submit a correction after

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<sup>4</sup> Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470); 47 C.F.R. § 54.504(b); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078, para. 575 (1997) (*Universal Service Order*), as corrected by *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata, FCC 97-157 (rel. June 4, 1997), *affirmed in part*, *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999) (*affirming Universal Service First Report and Order in part and reversing and remanding on unrelated grounds*), *cert. denied*, *Celpage, Inc. v. FCC*, 120 S. Ct. 2212 (May 30, 2000), *cert. denied*, *AT&T Corp. v. Cincinnati Bell Tel. Co.*, 120 S. Ct. 2237 (June 5, 2000), *cert. dismissed*, *GTE Service Corp. v. FCC*, 121 S. Ct. 423 (November 2, 2000).

<sup>5</sup> 47 C.F.R. § 54.504(b), (c); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (FCC Form 471).

<sup>6</sup> FCC Form 471, Block 5.

<sup>7</sup> See Form 471 Receipt Acknowledgement Letter, Schools and Libraries Division, Universal Service Administrative Company, Funding Year 4: 07/01/2001-06/30/2002 (Receipt Acknowledgement Letter or RAL).

<sup>8</sup> RAL at 2 (corrections must be submitted "within 2 weeks of the date of this letter").

<sup>9</sup> *Id.*; see also SLD web site, <[www.sl.universalservice.org](http://www.sl.universalservice.org)>.

<sup>10</sup> RAL at 2; see also *Request for Review by SouthWest Ohio Computer Association, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-230441, CC Dockets No. 96-45 and 97-21, Order, DA 02-1976, para. 3 (Wireline Comp. Bur. rel. August 9, 2002) (*SouthWest Ohio Computer Association Order*).

<sup>11</sup> FCC Form 471, Lake Station Community School Corporation, filed December 27, 2000 (Lake Station Form 471).

<sup>12</sup> *Id.* at 3-5.

receiving its RAL.<sup>13</sup> The RAL was issued on January 9, 2001, and Lake Station submitted its corrections request on January 24, 2001, indicating that all of its requests were for twelve months of service rather than three and requesting discounts for the additional nine months.<sup>14</sup>

5. On August 7, 2001, SLD issued a Funding Commitment Decision Letter awarding discounts only for the period requested in Lake Station's submitted FCC Form 471.<sup>15</sup> Lake Station then appealed, again explaining that it had mistakenly specified the service period for its FRNs to be three months instead of twelve and noting that it had been told by SLD personnel that it could make the correction after receiving the RAL.<sup>16</sup> On February 8, 2001, SLD denied the appeal, finding that "[p]rogram rules are clear that funding requests cannot be increased above the original amount requested."<sup>17</sup> Lake Station then filed the pending Request for Review, repeating the assertions that it made in its Appeal to SLD.

6. The Wireline Competition Bureau has repeatedly reviewed and upheld SLD's practice of disallowance of corrections that increase the amount of funding sought, even when requested prior to the issuance of the funding commitment decision letter.<sup>18</sup> The Bureau found that this practice "enables SLD to apply our funding priority rules properly in situations where demand exceeds the annual funding cap."<sup>19</sup> Here, Lake Station's requested changes to its FRNs undeniably increased the amount of funding. We therefore find that SLD correctly denied the requested corrections.

7. Lake Station asserts that SLD personnel indicated that it would be allowed to submit the corrections after receiving an RAL.<sup>20</sup> However, where a party has received erroneous

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<sup>13</sup> Request for Review at 1.

<sup>14</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dan DeHaven, Lake Station Community School Corporation, dated January 9, 2001; Facsimile from Dan DeHaven, Lake Station Community Schools, to Data Entry Corrections, Universal Service Administrative Company, filed January 24, 2001.

<sup>15</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dan DeHaven, Lake Station Community School Corporation, dated August 7, 2001 (Funding Commitment Decision Letter).

<sup>16</sup> Letter from Dan DeHaven, Lake Station Community Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed September 6, 2001 (SLD Appeal Letter).

<sup>17</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dan DeHaven, Lake Station Community School, dated February 8, 2002 (Administrator's Decision on Appeal Letter).

<sup>18</sup> See *SouthWest Ohio Computer Association Order*, para. 10; *Request for Review by Genesee Intermediate School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-151960, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 11820, para. 8-9 (Com. Car. Bur. 2001) (*Genesee Order*).

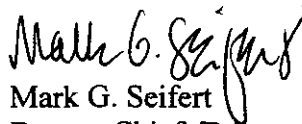
<sup>19</sup> *SouthWest Ohio Computer Association Order*, para. 12 (citing *Genesee Order*).

<sup>20</sup> Request for Review at 1.

advice, the government is not estopped from enforcing its rules in a manner that is inconsistent with the advice provided by the employee, particularly when relief is contrary to a rule.<sup>21</sup>

8. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Lake Station Community Schools, Lake Station, Indiana, on April 9, 2002 IS DENIED.

## FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert  
Deputy Chief, Telecommunications Access Policy Division  
Wireless Competition Bureau

<sup>21</sup> *In re Mary Ann Salvatoriello*, Memorandum Opinion and Order, 6 FCC Rcd 4705, 4707-08, para. 22 (1991) (citation omitted).